

**From:** Sandra Farrell <sfarrell\_01@yahoo.com>  
**To:** <cmeans@waterboards.ca.gov>  
**Date:** 5/6/2005 12:57:55 PM  
**Subject:** comments (File No. 02C-144)

Hello Chris. Please except this as our comments. I will fax a signed copy later

Thank you .

Sandra Farrell

John Robertus, Executive Director

San Diego Regional Water Quality Control Board

9174 Sky Park Court, Suite 100

San Diego, CA 92123-4340

Re: 401 Certification for the San Marcos Highlands Project

(File No. 02C-144)

Dear Mr. Robertus

We greatly appreciate the opportunity to comment on the Draft Certification permit for the San Marcos Highlands. We know staff has devoted a great deal of time to address issues surrounding this permit and we are pleased at many of the permits requirements. The fact that all mitagation is going to occur on site is a positive aspect of this permit. In addition, there appears to be great care by staff to ensure urban pollutants will be captured, filtered and cleansed before entering Agua Hedionda Creek.

Friends of Hedionda Creek approached the Board earlier expressing our concerns over the San Marcos Highlands. At that hearing, the Board directed Friends of Hedionda Creek to work with staff stating that if after working with staff that we felt issues had not been addressed, we would have the opportunity to return and address the Board. In a letter sent by us to Chris Means, in January, we raised concerns over new maps, presented by the developer at a December community workshop. The maps documentation supplied with the Draft Certification and a memo from the applicant's consultant are different than what was previously presented to the community by the developer. After review of documents supplied by staff; the Draft Certification, or "Action on Request for Clean Water Act section 401 Water Quality Certification ...." and the "March 15,2005 PCR Memo referenced in the permit", we still have several key concerns we feel have not been addressed.

We find there is insufficient information in the file or presented for the public to properly review and submit comments. However, we did our best with the information there is available to us. We believe that the wildlife undercrossing insufficient and the proposed undercrossing design interferes with one of the listed beneficial uses for Agua Hedionda Creek. In addition, we are concerned about the sewer lines, originally shown routed under the undercrossing and though the Creek, may still in the creek or wetlands area. We are concerned that due to the planned peacemealing of Las Posas Road to Buena Creek Road the permit may not address the long-term cumulative impacts of Las Posas Road to Agua Hedionda

Creek.

These are critical problems associated with this permit. We know both you and the Board are busy but we feel there are still too many issues associated with this project. We would like to meet with you to address our concerns, however if that is not possible then we respectfully request a public hearing so that our concerns can be addressed by the Board.

Comment 1:

The public does not have an accurate description of the project. The project is different from the project described in DSEIR 90-13 and maps submitted to the community by KB Homes in December of 2004. For instance, in the March 15 PCR memo On Figure 5, San Marcos Highlands Proposed Mitigation Measures, both the Eucalyptus Removal and Active use park are shown in the same color and appear to be located in the in the northern (headwaters) area of the project. Has the active use park been moved from the location described in DSEIR 90-13? Is the active use park taking the place of the Eucalyptus grove? Will the maintenance of the park require the use of pesticides and fertilizers and if run off from the park will impact Agua Hedionda Creek? Also, there is no dimension for the inside of the "large 8'-high culvert". Is the 8-foot dimension the inside opening or the exterior dimension? What are the length and width dimensions? Is it a soft bottom?

Unfortunately there is insufficient detail within the draft permit for the public to review an comment on how these changes may impact water quality. Some detailed project information appears to be in a memo dated March 15, 2005 from PCR, the applicant's consultant. We do not know how heavily staff relied on the information in this memo when creating the requirements for the Draft 401 Certification.

Comment 2:

We are extremely concerned to see we still do not have a bridge type crossing of sufficient size to accommodate wildlife documented on the site or one that matches the existing crossing located ¼ mile downstream. As a result, we do not believe the permit satisfies one of the beneficial uses of Agua Hedionda Creek---it use for wildlife.

The site serves as a wildlife corridor and is the headwaters of Agua Hedionda Creek. It is listed in the Federal Register as a Focus Planning Area for the Multiple Habitat Conservation Plan (MHCP) and is shown on the County's North County Multiple Species Conservation Plan as a Pre-approved Mitigation Area (PAMA). In addition, the Carlsbad Watershed Conservation Plan noted the importance of protecting the headwaters to ensure water quality does not continue to degrade. Finally, as a recognized wildlife corridor, wildlife including Mule deer rely on Agua Hedionda Creek to provide foraging opportunities and as a source of water. Mule deer, documented in the San Marcos Highlands DSEIR, 90-13 and the 2001 URS biological, require undercrossings that are significantly larger. We are concerned the proposed 8' high undercrossing will prevent deer and other large wildlife from getting access to water. As a result they may be forced onto the Las Posas Road, creating a hazard to vehicular traffic in the area.

We don't understand why the proposed undercrossing is so small. The existing Las Posas/Agua Hedionda Creek crossing, located downstream, in the Santa Fe Hills/Paloma development is a 38-foot wide x 20-foot high arch culvert (15'-9" clearance) with a soft bottom. According to the November 30, 2002, Mitigation Plan for the Las Posas Road Project, prepared by the Planning Associates for KB Homes, "The use of a soft-bottom arch culverts would maintain flows and connectivity above and below the creek crossing,. Preserving a soft bottom would ensure that subsurface storage and groundwater recharge are maintained at similar levels" ... "To reduce the potential for fragmentation habitats north and south of the crossing, a 38-foot wide by 20-foot high arched culvert (with soft bottom) will be utilized."

The Biological Goals, Standards, and Guidelines for Multiple Habitat Preserve Design (Ogden, February

1998) Section 6, page 6-4, item 8. states,

"Minimize barriers such as major roads. Roads that cross corridors

should provide underpasses allowing large mammals and other animals to cross. Roads crossing the corridor should be fenced by at least a 10-foot fence that channels animals toward the wildlife underpass. These fences should be buried at least 1 foot underground so animals cannot dig underneath. Bridges are the preferred type of wildlife underpass; box and pipe culverts are infrequently used by deer (Ogden 1992a) but may be used by some smaller animals. Corridors should be directed away from freeway interchanges if possible. The length-to-width ratio of wildlife underpasses should be less than 2. This ratio is less restrictive if the height of the underpass is greater than 30 feet (Ogden 1992a). Underpasses targeted for deer movement should be at least 20 feet high (K. Crooks pers. comm.). Measurements of the height of underpasses must consider decreased bank width over time due to high water and siltation. Noise within underpasses should be less than 60 dBA during the time of day at which the animals use it. Skylight openings within the underpass allow for vegetative cover within the underpass, and decrease the cave-like conditions, thus increasing the

likelihood of their use (Ogden 1992a). Natural vegetative cover should

be established and maintained at the entrance of wildlife underpasses."

We strongly believe the proposed crossing should at least match the design of the existing crossing just south of the site. It is unclear why staff feels the San Marcos Highlands development footprint justifies a significantly smaller undercrossing than what was built downstream. We know Mule deer use riparian areas. Mary Clarke, the Sierra Club representative to both the MHCP and NC-MSCP has seen mule deer at the pond at the Discovery Hills development. In a recent communication to me Ms. Clarke stated, "In February or March of this year, I was walking above the wildlife corridor along the creek that runs from Discovery Lake into San Marcos Creek. I observed a doe mule deer and her fawn moving along the bank of the creek, very close to the creek. They were headed east.) To confirm the above information, please contact Mary Clarke at 760-510-9684.

There appears to be no physical justification why a more appropriate crossing could be built. The existing dam that is currently on the property appears to be approximately 20-feet above the creek. No evidence is supplied in the documents illustrating why a crossing the same height as the existing dam is not possible. We are not sure if the applicant plans to do significant grading on the site which will require leveling the pond/creek area and therefore prevent an adequate space for an undercrossing. The Draft Certification does not address this.

The applicant may be making the argument that it is not financially practical to have a larger crossing. If this is the case, we would like to point out another design solution that could make the creek crossing unnecessary, preserving not only money but water quality.

How is this possible? Most of the project that impacts Agua Hedionda Creek the most is located within the unincorporated area of the County and will require annexation before the project can be built. Under the existing County General Plan the most of the development foot print of the Highlands is 1 dwelling unit per 2 or 4 acres (slope dependant). Under the County's existing General Plan the same area would yield approx. 30 homes- far less than the number being proposed on the development bubble within Planning Area 1, located on the east side of the creek. Under the County's plan it is possible to place all the dwellings on one side of the creek and eliminate the need for a creek crossing. The Board should note that under GP2020, due to the sensitive resources on the site the County has further reduced the density

and give the site a designation of 1 dwelling unit per 10 acres.

In summation, we ask that the RWQCB, in order to meet the beneficial uses for Agua Hedionda Creek, consider planning efforts such as the watershed plans, the MHCP, MSCP and the County's General Plan in relation to the spirit of the Clean Water Act when it certifies this 401 permit. We ask that all undercrossings for wildlife be designed in an appropriate manner by matching the requirements needed by the wildlife listed in the DSEIR and per the MHCP Biological Goals and Guidelines

Because of the proximity of Las Posas Road, a wildlife corridor and the development footprint relation to Agua Hedionda Creek, we are concerned at the long-term impacts of major roadways to water quality within Agua Hedionda Creek. The City's Circulation Element currently shows Las Posas running through the project, along the wetlands, and terminating at Buena Creek Road. Since roads historically have a negative impact to water quality we cannot tell from the document if there is long-term planning by the RWQCB regarding the cumulative impacts of this project and its contribution to the extension of Las Posas Road to Buena Creek Road. No EIR is available for Las Posas Road and according to the Army Corps letter dated August 15, 2001, Las Posas is being piecemealed to Buena Creek. We believe this piecemealing of Las Posas Road will have negative impacts to the water quality of Agua Hedionda Creek. No evidence has been provided stating staff has considered this in its permit process.

It is also unclear if alternatives were considered that would have reduced impacts to Agua Hedionda Creek. In our January letter to Chris Means we stated that running a major road along the wetlands was not appropriate because it would degrade water quality by adding pollutants. In past comments to the developer and City of San Marcos we requested that if Las Posas Road is absolutely needed, that it end at the intersection of "Street A" (the street that connects Planning Areas 1 and 2 in the project). This would allow for access to development on both the west and east side of Agua Hedionda Creek and reduce impacts to water quality of Agua Hedionda Creek, north of street A. It would also provide wildlife better access to water. Motorists going to Planning Area 1 can turn left at Street A and then right at the next street, if they want access to the lots that abut Las Posas Road. Under the permit, reasonable alternatives must be evaluated. Has this alternative, to stop Las Posas at street A been evaluated? What was staff's determination and on what documents exist that support your staff's findings?

Comment 3:

We believe the minimum Monitoring Program should assess and address invasive species that could impact water quality. Since the completion on the Santa Fe Hills project there has been an invasion of Arrundo within Agua Hedionda Creek, adjacent to the Santa Fe Hills development. Since its location is at the storm drain outfall, it appears the Arrundo has been washed from the development, through the storm drain and into the creek. Arrundo is a highly invasive plant species that reduces native species and contributes to degradation of water quality.

Finally, we would like to bring to your attention a comment made by Gary Hill, a resident living adjacent to the site and to the wetlands. Mr. Hill, in a recent e-mail communication, said the northern long finger section, running from the northern project boundary to Buena Creek Road, containing the mitigation areas, has existing easements for roads and utilities. Hill expressed concern that these are dominate easements, within the headwaters of the creek, are owned by third parties, unrelated to the underlying property owner. The Draft Certification does not appear to address this. Since these easements are in wetland areas covered by the permit, how will the permit address this easement in the wetlands?

As you can see we have many questions and concerns about the Draft 401 Certification that we believe have yet to be resolved. The lack of detail in the permit makes it impossible for us to see if all issues have been resolved. We can only guess on what this project actually is. We do know however, that the creek crossing is inadequate. We do not know if all the other issues have been addressed and

resolved. Although the City of San Marcos will need to ultimately ensure the requirements of this permit are carried out it is the public who will bare the costs. The homebuyers of the San Marcos Highlands and the taxpayers of San Marcos will be the ones who pay the bill if this project creates long-term negative water quality problems. I believe we have a commitment to the public to make sure this project is done well. We ask that you and your staff meet with us one last time and then if we can't get our issues resolved that we be allowed have our remaining issues

heard by your Board at a public hearing. We thank you and your staff or its care and commitment to the protection of Agua Hedionda Creek and look forward to working with all parties in this matter.

Respectfully,

Sandra Farrell

President

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